

## PROFESSIONAL LICENSURE DIVISION[645]

### Notice of Intended Action

**Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”**

**Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.**

Pursuant to the authority of Iowa Code section 147.76, the Board of Mortuary Science hereby gives Notice of Intended Action to amend Chapter 4, “Board Administrative Processes,” Chapter 100, “Practice of Funeral Directors, Funeral Establishments, and Cremation Establishments,” Chapter 101, “Licensure of Funeral Directors, Funeral Establishments, and Cremation Establishments,” and Chapter 102, “Continuing Education for Funeral Directors,” Iowa Administrative Code.

These proposed amendments update the rules to be consistent with guidance from the State Medical Director of the Department of Public Health and from the Medical Examiner’s Office. Universal precautions must always be followed by funeral directors when working with human remains even though there is a very low risk of contracting an infectious disease from human remains. Thus, amendments have been proposed to remove references to communicable disease. The proposed amendments reorganize the internship requirements and establish rules for instances when there is an interruption in the 12-month internship program. An amendment to the continuing education chapter is necessary to be consistent with legislative changes in 2010 Iowa Acts, Senate File 2325, that revises the automatic exemptions for funeral directors’ continuing education requirements in Iowa Code chapter 272C effective July 1, 2010. All other changes are technical in nature.

Interested parties were provided an opportunity to comment on the proposed amendments prior to publication of this Notice. The proposed amendments were prenoticed on May 10, 2010, and distributed to the Iowa Funeral Directors Association (IFDA) members and to other individuals who have requested to be notified of revisions to the Board’s administrative rules. Comments were due on the prenoticed amendments by May 27, 2010. The Board received no comments on the proposed amendments.

Any interested person may make written comments on the proposed amendments no later than August 3, 2010, addressed to Sharon Dozier, Professional Licensure Division, Department of Public Health, Lucas State Office Building, Des Moines, Iowa 50319-0075; E-mail [sdozier@idph.state.ia.us](mailto:sdozier@idph.state.ia.us).

A public hearing will be held on August 3, 2010, from 10 to 10:30 a.m. in the Fifth Floor Board Conference Room, Lucas State Office Building, Des Moines, Iowa, at which time persons may present their views either orally or in writing. At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the proposed amendments.

These amendments are intended to implement Iowa Code chapters 21, 147, 142D, 144C, 156 and 272C and 2010 Iowa Acts, Senate File 2325, section 1.

The following amendments are proposed.

ITEM 1. Rescind rule 645—4.12(272C) and adopt the following **new** rule in lieu thereof:

#### **645—4.12(272C,83GA,SF2325) Automatic exemption.**

**4.12(1)** A licensee, except a funeral director, shall be exempt from the continuing education requirement during the license biennium when the licensee:

- a. Served honorably on active duty in the military service; or
- b. Resided in another state or district having continuing education requirements for the profession and met all requirements of that state or district for practice therein; or
- c. Was a government employee working in the licensee’s specialty and assigned to duty outside the United States; or

d. Was absent from the state but engaged in active practice under circumstances which are approved by the board.

**4.12(2)** Automatic exemptions for a funeral director are identified in rule 645—102.5(83GA,SF2325).

ITEM 2. Rescind the definition of “Communicable disease” in rule **645—100.1(156)**.

ITEM 3. Adopt the following **new** subrule 100.2(5):

**100.2(5)** Withholding human remains. A funeral director shall not withhold human remains based solely on nonpayment of fees.

ITEM 4. Rescind paragraphs **100.4(1)“c”** and **“d.”**

ITEM 5. Amend subrule 100.4(2) as follows:

**100.4(2)** After the funeral director has assumed custody of the human remains, ~~provided that death was not caused by a reportable communicable disease,~~ the funeral director may delegate the task of transferring the dead human remains to an unlicensed employee or agent. Prior to transfer, the funeral director shall topically disinfect the body, secure all body orifices to retain all secretions, place the human remains in a leakproof container for transfer that will control odor and prevent the leakage of body fluids, and issue a burial transit permit. ~~If the decedent died of a reportable communicable disease, transfer shall only be made by a funeral director.~~

ITEM 6. Adopt the following **new** subrules 100.4(3) and 100.4(4):

**100.4(3)** A funeral director may delegate the transportation of unembalmed human remains to an unlicensed employee or agent of the funeral home without first assuming custody and without topically disinfecting or securing body orifices if all of the following are true:

a. The transportation is to or from the medical examiner’s office, or otherwise at the direction of the medical examiner;

b. The remains are placed in a leakproof container by medical examiner personnel; and

c. The employee or agent is issued a burial transit permit or other evidence of authorization.

**100.4(4)** An unlicensed employee or agent referred to in subrules 100.4(2) and 100.4(3) shall have completed the annual OSHA training related to blood-borne pathogens.

ITEM 7. Amend paragraph **100.6(1)“a”** as follows:

a. Permission for embalming. The funeral director shall obtain authorization for embalming from an authorized person. If permission to embalm cannot be obtained after a diligent attempt to contact from the authorized person, the funeral director may proceed with the embalming without the permission of the authorized person if necessary to comply with subrule 100.6(3).

ITEM 8. Rescind paragraph **100.6(1)“b.”**

ITEM 9. Reletter paragraphs **100.6(1)“c”** to **“i”** as **100.6(1)“b”** to **“h.”**

ITEM 10. Rescind subrule **100.6(2)**.

ITEM 11. Renumber subrules **100.6(3)** and **100.6(4)** as **100.6(2)** and **100.6(3)**.

ITEM 12. Amend renumbered subrule 100.6(3) as follows:

**100.6(3)** Care of the unembalmed human remains.

a. ~~When death is not attributed to a reportable communicable disease, embalming~~ Embalming may be omitted provided that interment or cremation is performed within 48 ~~72~~ hours after death or within 24 hours of taking custody if the human remains were previously in the custody of others, whichever is longer.

b. ~~When death is attributed to a reportable communicable disease, embalming may be omitted provided that cremation is performed within 48 hours after death. In such cases, the human remains shall be immediately topically disinfected, placed in a container that will control odor and prevent the leakage of body fluids and shall only be transported to the crematory by the funeral director or intern. If refrigeration is utilized, embalming or final disposition may be extended up to 72 hours longer than the~~

maximum period provided in paragraph 100.6(3) “a.” The body must be kept between 38 and 42 degrees Fahrenheit.

c. ~~If viewing of the unembalmed human remains is requested, the human remains shall be topically disinfected and all body orifices shall be packed or otherwise secured with material which will absorb and retain all secretions. No public viewing will be allowed of an unembalmed decedent who has died of a reportable communicable disease, but private viewing is permissible at the discretion of the funeral director.~~

ITEM 13. Amend paragraph **100.10(5)“a”** as follows:

a. ~~A crematory shall cremate within 48 hours of death or~~ human remains within 24 hours of taking custody if the human remains were previously in the custody of others, whichever is longer of issuance of the delivery receipt as defined in subrule 100.10(1).

ITEM 14. Amend paragraph **101.3(1)“c”** as follows:

c. ~~Prior to July 1, 2007, an examination covering the Iowa law and rules for mortuary science with a score of at least 75 percent, or a college course of at least one semester hour or equivalent in current Iowa law and rules covering mortuary science content areas including but not limited to Iowa law and rules governing the practice of mortuary science, cremation, vital statistics, cemeteries and preneed. Beginning July 1, 2007, a~~ college course of at least one semester hour or equivalent in current Iowa law and rules covering mortuary science content areas including but not limited to Iowa law and rules governing the practice of mortuary science, cremation, vital statistics, cemeteries and preneed.

ITEM 15. Amend paragraph **101.3(2)“d”** as follows:

d. ~~Prior to July 1, 2007, successfully pass an examination covering the Iowa law and rules for mortuary science with a score of at least 75 percent or a college course of at least one semester hour or equivalent in current Iowa law and rules covering mortuary science content areas including but not limited to Iowa law and rules governing the practice of mortuary science, cremation, vital statistics, cemeteries and preneed. Beginning July 1, 2007, successfully~~ Successfully complete a college course of at least one semester hour or equivalent in current Iowa law and rules covering mortuary science content areas including but not limited to Iowa law and rules governing the practice of mortuary science, cremation, vital statistics, cemeteries and preneed.

ITEM 16. Amend subrule 101.4(2) as follows:

**101.4(2)** ~~Prior to being registered as an intern in Iowa and prior to July 1, 2007, an applicant shall be required to pass an examination covering the Iowa law and rules for mortuary science or a college course of at least one semester hour or equivalent in current Iowa law and rules covering mortuary science content areas including but not limited to Iowa law and rules governing the practice of mortuary science, cremation, vital statistics, cemeteries and preneed. A 75 percent score shall be required for passing this examination. Beginning July 1, 2007, prior~~ Prior to being registered as an intern in Iowa, an applicant shall successfully complete a college course of at least one semester hour or equivalent in current Iowa law and rules covering mortuary science content areas including but not limited to Iowa law and rules governing the practice of mortuary science, cremation, vital statistics, cemeteries and preneed.

ITEM 17. Rescind subrule 101.5(1) and adopt the following **new** subrule in lieu thereof:

**101.5(1) Internship.**

a. The intern must serve a minimum of one year of internship under the direct supervision of an Iowa board-certified preceptor. The beginning and ending dates of the internship shall be indicated on the internship certificate. The intern shall engage in the practice of mortuary science only during the time indicated on the internship certificate.

b. The intern shall, during the internship, be a full-time employee with the funeral establishment at the site of internship except as provided in paragraph 101.5(2) “j.”

c. No licensed funeral director shall permit any person in the funeral director’s employ or under the funeral director’s supervision or control to serve an internship in funeral directing unless that person has a certificate of registration as a registered intern from the department of public health. The registration shall be posted in a conspicuous place in the intern’s primary place of practice.

d. No licensed funeral director or licensed funeral establishment shall have more than one intern funeral director for the first 100 human remains embalmed or funerals conducted per year, and with a maximum of two interns per funeral establishment.

e. Registered interns shall not advertise or hold themselves out as funeral directors or use the degree F.D. or any other title or abbreviation indicating that the intern is a funeral director.

f. The intern shall, during the internship, embalm not fewer than 25 human remains and direct or assist in the direction of not fewer than 25 funerals under the direct supervision of the certified preceptor and shall submit reports on forms furnished by the department of public health. Work on the first 5 embalming cases and funeral cases must be completed in the physical presence of the preceptor. The first 12 embalming cases and the first 12 funeral case reports must be completed and submitted by the completion of the sixth month of the internship.

g. Before being eligible for licensure, the intern must have filed the 25 completed embalming and funeral directing case reports and a 6-month and a 12-month evaluation form with the department of public health.

h. When, for any valid reason, the board determines that the education a registered intern is receiving under the supervision of the present preceptor might be detrimental to the intern or the profession at large, the intern may be required to serve the remainder of the internship under the supervision of a licensed funeral director who is approved by the board.

i. The length of an internship may be extended if the board determines that the intern requires additional time or supervision in order to meet the minimum proficiency in the practice of mortuary science.

j. The board views a one-year internship completed in a consecutive 12-month period as the best training option. If an internship is interrupted, the internship must be completed within 24 months of the date it started in order to be readily accepted by the board. Internships that are not completed within 24 months shall be preapproved by the board on such terms as the board deems reasonable under the circumstances. The board may require any or all of the following:

(1) Completion of a college course or continuing education course covering mortuary science laws and rules;

(2) Additional case reports;

(3) Extension of an internship up to an additional 12 months depending on such factors as the number of months completed during the internship, length of time that has lapsed since the intern was actively involved in the internship program, and the experience attained by the intern.

k. Application for change of preceptor or any other alteration must be made in writing and approval granted by the board before the status of the intern is altered.

l. The intern shall complete on a form provided by the board a confidential evaluation of the preceptorship program at the end of the internship. This form shall be submitted before the funeral director's license is issued to the intern.

m. The intern must be approved and licensed following a successful internship before the intern may practice mortuary science.

ITEM 18. Amend paragraphs **101.5(2)“a”** to **“c”** as follows:

a. ~~A preceptor must have a valid preceptor certificate. A preceptor must have completed a training course within five years prior to accepting an intern. If the certification is older than five years, the funeral director must recertify as specified by the board.~~ This training course shall cover Iowa law and rule content areas, including but not limited to Iowa law and rules governing licensure and the practice of mortuary science and human resource issues. The training course may be counted toward the continuing education hours required for the licensure biennium in which the training course was completed.

b. Any duly Iowa-licensed funeral director who has been practicing for a minimum of five years and who has not had any formal disciplinary action within the past five years with the board of mortuary science and has completed a board-approved preceptor training course detailed in 645—paragraph 101.5(2)“a” will be eligible to be a preceptor. This training course is to cover mortuary science Iowa law and rule content areas including but not limited to Iowa law and rules governing licensure and the

~~practice of mortuary science and human resource issues. The training course may be counted toward the continuing education hours required for that licensing period.~~

c. ~~Is The~~ preceptor shall be affiliated with a funeral establishment that has not had any formal disciplinary action within the past five years.

ITEM 19. Amend subrule 101.8(6) as follows:

~~**101.8(6)** Prior to July 1, 2007, successfully passes an examination covering the Iowa law and rules for mortuary science with a score of at least 75 percent or a college course of at least one semester hour or equivalent in current Iowa law and rules covering mortuary science content areas including but not limited to Iowa law and rules governing the practice of mortuary science, cremation, vital statistics, cemeteries and preneed. Beginning July 1, 2007, an applicant must complete~~ Complete a college course of at least one semester hour or equivalent in current Iowa law and rules covering mortuary science content areas including but not limited to Iowa law and rules governing the practice of mortuary science, cremation, vital statistics, cemeteries and preneed;

ITEM 20. Amend subrule 101.10(2) as follows:

~~**101.10(2)** An individual who was issued a license within six months of the license renewal date will not be required to renew the license until the subsequent renewal date two years later. Continuing education hours acquired anytime from the initial licensing until the second license renewal may be used. The licensee will be required to complete a minimum of 24 hours of continuing education per biennium for each subsequent license renewal. Effective July 1, 2007, with 2 of the 24 hours of continuing education shall be in covering current Iowa law and rules: as identified in 645—paragraph 102.3(2) “f.”~~

ITEM 21. Amend subparagraph ~~**101.18(3)“b”(3)**~~ as follows:

~~(3) Prior to July 1, 2007, verification of successful passage of an examination covering the Iowa law and rules for mortuary science with a score of at least 75 percent or a college course of at least one semester hour or equivalent in current Iowa law and rules covering mortuary science content areas including but not limited to Iowa law and rules governing the practice of mortuary science, cremation, vital statistics, cemeteries and preneed. Beginning July 1, 2007, verification~~ Verification of completion of a college course of at least one semester hour or equivalent in current Iowa law and rules covering mortuary science content areas including but not limited to Iowa law and rules governing the practice of mortuary science, cremation, vital statistics, cemeteries and preneed.

ITEM 22. Adopt the following new rule 645—102.5(83GA,SF2325):

**645—102.5(83GA,SF2325) Automatic exemption.** A licensee shall be exempt from the continuing education requirement during the license biennium when that person:

1. Served honorably on active duty in the military service; or
2. Was a government employee working in the licensee’s specialty and assigned to duty outside the United States; or
3. Was absent from the state but engaged in active practice under circumstances which are approved by the board.